

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
WDNC Civil Action No. _____

BRENT SHAUN HEAVNER,

Plaintiff,

v.

SETH WILLIAM BURNS, individually
and in his official capacity as an officer
with the Hickory Police Department,
THURMAN WHISNANT, individually
and in his official capacity as the Chief of
Police for the Hickory Police Department,
THE CITY OF HICKORY, a North
Carolina Municipality, and the HICKORY
POLICE DEPARTMENT,

Defendant.

**NOTICE OF REMOVAL TO FEDERAL
COURT**

Defendants Seth William Burns, Thurman Whisnant, The City of Hickory and Hickory Police Department (hereinafter “Defendants”) by and through the undersigned counsel, respectfully remove the above-captioned action from the Superior Court of Catawba County, North Carolina, to the United States District Court for the Western District of North Carolina, pursuant to 28 U.S.C. § 1331, § 1441, § 1446, and §1367.

In support of this *Notice of Removal to Federal Court*, Defendants state as follows:

1. On September 29, 2021, Plaintiff filed a Complaint in the Superior Court of Catawba County, North Carolina, styled *Brent Shaun Heavner v. Seth William Burns, et al*, which matter was assigned Civil Action No. 21 CVS 2410. Defendants were served with the Summons and Complaint on or after October 14, 2021.

2. Pursuant to 28 U.S.C. § 1446(b), a copy of all process and pleadings served upon Defendants are attached hereto as **Exhibit A**.

3. This notice is being filed within thirty (30) days of the date of service of the Summons and Complaint in this cause on Defendants; accordingly, this Notice is timely filed pursuant to 28 U.S.C. § 1446(b). Defendants are represented by the undersigned counsel and each Defendant consents to removal.

4. In the Complaint, Plaintiff has alleged various causes of action against Defendants, including a claim of deprivation of Plaintiff's civil rights in violation of the Civil Rights Act of 1871, 42 U.S.C. §§ 1983 and for damages arising under the laws of the United States.

5. Because this is a civil suit for damages arising under the laws of the United States, specifically, the Civil Rights Act of 1871, 42 U.S.C. §§ 1983, this case involves a federal question and federal jurisdiction is therefore founded upon 28 U.S.C. § 1331 and is removable to federal court pursuant to 28 U.S.C. § 1441. Further this Court has supplemental jurisdiction over the state law claim pursuant to 28 U.S.C. § 1367.

6. Based on federal question jurisdiction, Defendants contend that the aforesaid state action may be removed by Defendants pursuant to 28 U.S.C. § 1441. Defendants contend that the United States District Court would be acting within its discretion by exercising supplemental jurisdiction over the remaining state claims, if any, pursuant to 28 U.S.C. § 1367.

7. The United States District Court for the Western District of North Carolina is the District in which the aforementioned state court action is now pending. Therefore, the undersigned hereby removes this action from the aforesaid Superior Court of Catawba County, North Carolina, in which it is now pending, to the United States District Court for the Western District of North Carolina by filing this Notice of Removal.

8. Written notice of filing of this Notice of Removal will be served upon the adverse party in this action as required by law.

9. A copy of this Notice of Removal has been sent for filing with the Clerk of the Superior Court of Rowan County, North Carolina, as shown by the Notice attached hereto as **Exhibit B**.

WHEREFORE, the Defendants Seth William Burns, Thurman Whisnant, The City of Hickory and Hickory Police Department hereby give notice that this action has been removed from the Superior Court of Catawba County, North Carolina, to the United States District Court for the Western District of North Carolina.

This the 11th day of November, 2021.

CRANFILL SUMNER LLP

BY: /s/ Patrick H. Flanagan
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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day electronically filed the foregoing ***Notice of Removal to Federal Court*** with the Clerk of Court using the CM/ECF system and served the same on all of the parties to this cause by depositing a copy hereof, postage prepaid, in the United States Mail, addressed as follows:

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Attorneys for Plaintiff

This the 11th day of November, 2021.

CRANFILL SUMNER LLP

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